



IMPACT OF COVID-19 ON U.S. IMMIGRATION FOR UF

June 24, 2020

FRAGOMEN

US Immigration

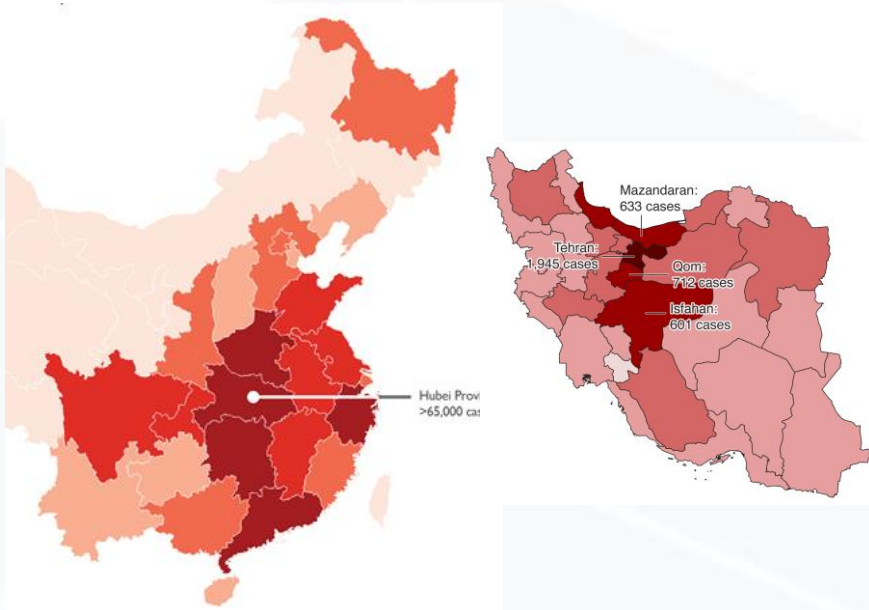
Open for Business!!

- ▶ USCIS and DOL are fully operational (although with reduced in person services)
- ▶ Green cards, H-1Bs, O-1s, etc. are being APPROVED every day
- ▶ As long as the employee is in the US and does not plan to leave the US, it is business as usual and green cards, H-1B extension, H-1B transfers, etc. should continue to be initiated
- ▶ Changes/Issues Due to COVID/Executive Order:
 - ▶ International Travel (to be discussed in the next few slides)
 - ▶ New employees who are abroad and trying to enter on an H-1B (to be discussed)
 - ▶ Most green card interviews are being WAIVED and individuals are simply receiving green cards in the mail
 - ▶ Fingerprinting (for green cards and for certain EADs) are severely delayed/backlogged and are just starting back up again this month
 - ▶ PERM Recruitment could be problematic

ENTERING THE U.S.

WHO CAN & WHO CAN'T – CHINA, IRAN, SCHENGEN AREA, BRAZIL, U.K. & IRELAND

- ▶ **CAN'T:** Entry ban for foreign nationals who have visited China, Iran, the Schengen Area, Brazil, the U.K., and/or Ireland within 14 days of seeking admission, except lawful permanent residents, immediate family members of U.S. citizens and lawful permanent residents, and certain others.
 - ▶ As of last week, F-1 students can now enter from Schengen, UK, Ireland
- ▶ **CAN:** U.S. permanent residents, immediate family of U.S. citizens and permanent residents and others exempted from the entry ban **may be subject to quarantine.**



Countries in Schengen Area include: **Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, and Switzerland.**

ENTERING THE U.S.

EXEMPTIONS

- ▶ The **following travelers** are exempt from the ban, but will be required to undergo screening and other measures upon arrival:
 - ✓ U.S. citizens;
 - ✓ U.S. lawful permanent residents;
 - ✓ Spouses of U.S. citizens and lawful permanent residents;
 - ✓ A foreign national who is the parent or legal guardian of an unmarried U.S. citizen or lawful permanent resident under the age of 21;
 - ✓ A foreign national who is the sibling of a U.S. citizen or lawful permanent resident, provided they are both unmarried and under 21;
 - ✓ A foreign national who is the child, foster child or ward of a U.S. citizen or lawful permanent resident, or who is a prospective adoptee seeking to enter the United States on an IR-4 or IH-4 visa;

ENTERING THE U.S.

EXEMPTIONS

- ▶ The **following travelers** are exempt from the ban, but will be required to undergo screening and other measures upon arrival:
 - ✓ A foreign national traveling at the invitation of the U.S. government for a purpose related to mitigation of the COVID-19 virus;
 - ✓ A foreign air or sea crewmember;
 - ✓ Certain A, C, E-1 (TECRO or TECO), G, and NATO nonimmigrants;
 - ✓ A foreign national whose entry would not pose a risk of transmitting the virus as determined by the CDC;
 - ✓ Members of the U.S. armed forces and their spouses and children
 - ✓ A foreign national whose entry would be in the national interest; and
 - ✓ A foreign national whose entry would further important U.S. law enforcement objectives.

ENTERING THE U.S.

NATIONAL INTEREST EXEMPTION FOR THOSE ENTERING FROM EUROPE, UK, IRELAND

- Travel as a public health or healthcare professional or researcher to alleviate the effects of the COVID-19 pandemic, or to continue ongoing research in an area with substantial public health benefit (e.g. cancer or disease research).
- NOTE: For those entering from Iran, China and Brazil, the exemption is only for those coming to the US to treat COVID patients or conduct COVID research.

ENTERING THE U.S.

WHO CAN & WHO CAN'T – MEXICO & CANADA



- ▶ **CAN:** Only “**essential travel**” is permitted across the U.S.-Mexico and U.S.-Canada borders, which includes travel by U.S. citizens, lawful permanent residents, foreign nationals traveling to work in the United States, and those using the Visa Waiver Program (VWP) for business travel, among others.
- ▶ **CAN'T:** “Non-essential” travel – **tourism or recreational**
- ▶ The bar on non-essential land border travel will remain in effect until **at least August 20, 2020.**

ENTERING THE U.S.

“ESSENTIAL TRAVEL”

- ▶ “Essential” travel that may continue across the borders under the new restrictions includes, but is not limited to:
 - ✓ U.S. citizens and lawful permanent residents returning to U.S.
 - ✓ Lawful cross-border trade (e.g. truck drivers carrying cargo)
 - ✓ **Travel to work**, attend educational institutions or for medical purposes
 - ✓ Travel for emergency response and public health purposes
 - ✓ Travel by members of the U.S. Armed Forces, and their spouses and children, returning to the U.S.
 - ✓ Other forms of travel (case-by-case basis by CBP)




ENTRY RESTRICTIONS BY JURISDICTION


IMMIGRATION UPDATES REGARDING COVID-19

- Check this page regularly for the latest immigration updates on this fluid situation:

<https://www.fragomen.com/about/news/immigration-update-coronavirus>



Download this table for a summary of current entry restrictions by jurisdiction.



Executive Orders

Suspension of Immigrant Entry

➤ On April 22, 2020, President Trump signed a presidential proclamation to temporarily suspend the entry of certain employment-based, family-based and other immigrants for 60 days as of 11:59 PM EDT on April 23, 2020. This ban has been formally extended through December 31, 2020.

➤ Who is subject?

- ❖ Foreign nationals not in possession of a valid immigrant visa as of the effective date of the proclamation
- ❖ Foreign nationals who do not have an official travel document other than an immigrant visa that is valid as of the effective date of the proclamation OR is issued after the effective date of the proclamation (e.g., transportation letters, boarding foils, or advance parole documents)

➤ Who is exempt?

- ❖ U.S. lawful permanent residents
- ❖ Foreign nationals seeking to enter on an immigrant visa as a physician, nurse, or other healthcare professional, as well as their spouse or unmarried children under 21
- ❖ Applicants for EB-5 immigrant visas
- ❖ Spouses of U.S. citizens
- ❖ Children under 21 of U.S. citizens and prospective adoptees in the IR-4 or IH-4 visa classifications
- ❖ Foreign nationals whose entry would further important U.S. law enforcement objectives
- ❖ Members of the U.S. armed forces and the spouses and children of such individuals
- ❖ Foreign nationals seeking to enter as Special Immigrants in the SI or SQ classification, and the spouse and children of such individuals
- ❖ Foreign nationals whose entry is in the U.S. national interest

➤ **The suspension DOES NOT affect the filing or processing of applications for adjustment of status to permanent residence WITHIN the United States. This provision impacts almost NO UF employees.**

Executive Orders

Ban on H-1B, L-1, H-2B, and J-1 Entry

- ▶ On June 22, 2020, President Trump issued proclamation suspending the entry of foreign nationals in the H-1B, L-1, H-2B, and J-1 categories, as well as the related categories for dependents.
- ▶ This non-immigrant ban took effect on 12:01 AM EDT on June 24 and will be in place through *at least* December 31, 2020.

▶ Who is subject?

- ❖ Foreign nationals in the following categories who outside the U.S. on June 24, 2020 AND who do not hold a valid visa, advance parole, or other U.S. travel document
 - **H-1B** and H-2B Nonimmigrants
 - L-1A Executives and Managers
 - L-1B Specialized Knowledge Workers
 - J-1 Interns, Trainees, Teachers, Camp Counselors, Au Pairs, and Summer Work Travel Participants
 - Dependent Spouses and Children of these Categories.

▶ Who is exempt?

- ❖ Foreign nationals present in the U.S. at 12:01 EDT on June 24, 2020, including those in the U.S. awaiting a change of status under the FY 2020 H-1B cap
- ❖ Foreign nationals holding a valid visa, advance parole, or other U.S. travel document on June 24, even if they are outside the U.S. when the ban takes effect
- ❖ U.S. lawful permanent residents
- ❖ Spouse or Child of a U.S. citizen
- ❖ J-1 Exchange Program participants *other than* interns, trainees, teachers, camp counselors, au pairs, and summer work travel participants
- ❖ Foreign nationals entering to provide temporary labor or services essential to the U.S. food supply chain

Executive Orders

Ban on H-1B, L-1, H-2B, and J-1 Entry

- What is still unclear is if individuals who were in the US on June 24th but who now need to travel and apply for a new H-1B visa will be considered subject to this proclamation.
 - As such, we advise against any international travel at this time.
 - If the individual was inside the US on June 24 AND they possess a visa that will still be valid when they plan to re-enter the US, then they are not subject to this proclamation and can travel, but should proceed with extreme caution.
- This ban does NOT impact Canadian citizens as they are able to enter the US in H-1B status WITHOUT an H-1B visa in their passport.

Executive Orders

Ban on H-1B, L-1, H-2B, and J-1 Entry: Exemptions

- For travel as a public health or healthcare professional, or researcher to alleviate the effects of the COVID-19 pandemic, or to conduct ongoing medical research in an area with a substantial public health benefit (e.g. cancer or communicable disease research). This includes those traveling to alleviate effects of the COVID-19 pandemic that may be a secondary effect of the pandemic (e.g., travel by a public health or healthcare professional, or researcher in an area of public health or healthcare that is not directly related to COVID-19, but which has been adversely impacted by the COVID-19 pandemic).
- Travel to provide essential services to the US food supply chain
- Travel supported by a request from a U.S. government agency or entity to meet critical U.S. foreign policy objectives or to satisfy treaty or contractual obligations.
- Foreign nationals who believe they qualify for a national interest exception of the NIV or IV entry ban must make an appointment at a consulate to apply for an exemption. Decisions on exceptions are to be made at the time of the interview

U.S. Consulates

Starting to Re-Open

- State Department [website now confirms](#) that U.S. embassies and consulates are beginning a phased resumption of routine visa services.
- Each post will reopen on their own timeline, taking into consideration the particular conditions of the host country. The agency advises the public to monitor individual embassy and consular websites for information on a particular post at <https://www.usembassy.gov/>.
- As post-specific conditions permit, consulates will phase in processing some routine nonimmigrant and immigrant visa cases, for example: travelers with urgent travel needs; students (F-1, M-1, and certain J-1); and some family members of U.S. citizens (consistent with the exceptions to Presidential Proclamation 10014). The agency expects the volume and types of visa cases each post will process to depend on local circumstances.
- For posts that continue to suspend routine services, in limited circumstances, foreign nationals with an urgent matter who need to travel immediately should be able to request an emergency appointment at <https://ais.usvisa-info.com/> or by following guidance on the specific consulate website.

U.S. Immigration

Coming Soon...

- Biden Immigration Plan: A common sense approach to Immigration Reform
 - Priorities to US Ph.D. grads and especially STEM Ph.D. grads
 - E-Verify may be mandatory
 - Elimination of per country quota for green cards
 - Increased employer obligations/compliance for H-1Bs
- H-1B Changes: Trump Administration may issue an interim final rule with immediate impact in the coming weeks to change the definition of an H-1B specialty occupation
 - This could limit entry level positions and Level 1 wage occupations
 - Restrictions and more requirements when placing an employee at a third party worksite (rare at UF)
- Rescission of H-4 EADs for Spouses
- F-1s: Proposed changes to tighten OPT requirements and more compliance for CPT
 - F-1s may have expiration dates on I-94s instead of D/S
- Restrictions on B-1 Business Visitors including scope of purpose to visit and length of admission
- Fees set to increase in September 2020!!

COVID-19 Resources

- ▶ <https://www.fragomen.com/about/news/immigration-update-coronavirus>
- ▶ <https://www.nafsa.org/regulatory-information/sevp-covid-19-guidance-sources#sevp covid19faq>
- ▶ <https://www.ice.gov/covid19>
- ▶ <https://www.uscis.gov/about-us/uscis-response-coronavirus-2019-covid-19>
- ▶ <https://www.fragomen.com/people/aaron-blumberg>

Thank you and please be safe and stay healthy!

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